



**STATE OF HAWAII
CAMPAIGN SPENDING COMMISSION**

235 SOUTH BERETANIA STREET, ROOM 300
HONOLULU, HAWAII 96813

February 9, 2016

TO: The Honorable Jill N. Tokuda, Chair
Senate Committee on Ways and Means

The Honorable Donovan M. Dela Cruz, Vice Chair
Senate Committee on Ways and Means

Members of the Senate Committee on Ways and Means

FROM: Kristin Izumi-Nitao, Executive Director *KI*
Campaign Spending Commission

SUBJECT: Testimony on S.B. No. 2029, Relating to Campaign Spending

Thursday, February 11, 2016
9:30 a.m., Conference Room 211

Thank you for the opportunity to testify on this bill. The Campaign Spending Commission ("Commission") supports this bill.

This bill amends Hawaii Revised Statutes ("HRS") §11-410 amending subsection (a)(2) by replacing "corporation, organization, association, or labor union" with "a person other than an individual." This will bring this subsection in conformity with the definition of "person" contained in HRS §11-302, which includes other entities such as a partnership, a candidate committee, a noncandidate committee, a party, a business entity, and auxiliary committees of a labor union.¹ The bill also increases the amount of a fine that the Commission may assess against a person other than an individual from an amount not to exceed \$1,000 to an amount not to exceed \$5,000 or an amount equivalent to three times an unlawful contribution or expenditure. The increase in the amount of the fine is necessary in enforcement cases against independent expenditures committees (Super PACs). Further, the trebling of the amount of an unlawful contribution or expenditure as a fine is already applicable to individuals. It makes sense to extend this increased fine to a person other than an individual. The Commission believes that the higher fine amount will be a more effective deterrent for Super PACs.

The bill also allows the Commission to recover its costs of investigation against a person found by the Commission to have violated the law. The Hawaii Election Campaign Fund

Testimony on S.B. No. 2029

¹ Subsection (a)(1) applies to individuals.

(“HECF”), which stands at \$1.8 million as of June 30, 2015, decreases each fiscal year by around \$500,000. Thus, the Commission seeks to recover the cost of bringing an enforcement action against a person by having that person, if found to be in violation of law, be responsible for the cost of the investigation, rather than the HECF. The most typical cost of an investigation is the bank fee charged to the Commission for the production of subpoenaed documents. Another cost is the use of investigative services. The Commission does not have an investigator on staff. Thus, the Commission has to contract with individuals for investigative services from time to time.

The Commission respectfully requests that this Committee pass this measure.²

² Based upon concerns expressed in a House Committee on Judiciary (“JUD”) meeting on February 4, 2016, on this measure’s companion bill, H.B. No. 1550, Commission staff offered a redraft of the measure by replacing “a person other than an individual” with a “noncandidate committee making only independent expenditures” in subsection (a)(2). In this amended form, the increased fine amount (\$5,000) would only apply to Super PACs. This new development on the House side was conveyed by the Commission to the Senate Committee on Judiciary and Labor (“JDL”) on February 5, 2016 through JDL’s attorney. JUD is scheduled to rehear the bill on February 11, 2016. Although the Commission is willing to support the redrafted form of H.B. No. 1550 submitted to JUD, since the Commission does not know what amendments, if any, JUD will make to H.B. No. 1550, and since the Commission believes it is unlikely for this Committee to make substantive amendments to the bill, the Commission at this time asks this Committee to pass this measure unamended, as it was passed by JDL, to permit further discussion.



Senate Ways and Means Committee
Chair Jill Tokuda, Vice Chair Donovan Dela Cruz

Thursday, 02/11/2016 at 9:30 AM in Room 211
SB 2029 – Relating to Campaign Spending

TESTIMONY OF SUPPORT
Carmille Lim, Executive Director, Common Cause Hawaii

Dear Chair Tokuda, Vice Chair Dela Cruz, and members of the Senate Ways and Means Committee:

Common Cause Hawaii supports SB 2029 which increases the amounts of fines that may be assessed against persons other than individuals for campaign spending violations. This bill also allows the campaign spending commission to recover its costs from violators, and directs moneys collected for costs to be deposited in the Hawaii Election Campaign Fund.

We believe that the proposed fine increase toward “persons other than individuals” from \$1,000 to \$5,000 takes into account inflation, and the current political landscape we currently operate in as a result of the 2010 U.S. Supreme Court’s *Citizens United* decision which allowed private entities to funnel unlimited amounts of money into elections.

Allowing the fines collected to be deposited into the Hawaii Election Campaign Fund would further support the sustainability of Hawaii’s partial public funding program and the Campaign Spending Commission, which offers a valuable service to the public by regulating and enforcing Hawaii’s campaign spending laws.

Thank you for the opportunity to offer testimony **supporting SB 2029**.



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COMMITTEE ON WAYS AND MEANS
THURSDAY, FEB. 11, 2016, 9:30 A.M., CONFERENCE ROOM 211
SB2029 RELATING TO CAMPAIGN SPENDING
TESTIMONY
Beppie Shapiro, League of Women Voters of Hawaii

Chair Tokuda, Vice-Chair Dela Cruz, and Committee Members:

The League of Women Voters of Hawaii supports SB2029. This multi-part bill proposes changes to the way fines are imposed, collected, and deposited by the Campaign Spending Commission.

As context, we remind the Committee that the CSC currently must fund its operating costs from the Hawaii Election Campaign Fund, which currently receives money only from the voluntary individual tax return check-off. As explained to tax filers, and as originally intended by the Legislature, the HECF is to be used for the partial public financing of political campaigns by eligible candidates. The HECF is becoming depleted due to reduced input and the increased out-flow to cover CSC operating costs. The partial public financing program is in danger due to this depletion.

SB2029 increases substantially the fines applicable to an organization (referred to in the bill, confusingly, as a person other than an individual) . The League strongly supports this provision which would reinforce the importance of compliance with Hawaii's campaign laws.

SB2029 proposes to increase the HECF by recovering costs as well as fines from individual/persons fined by the CSC. The amount paid for costs would be deposited in the HECF. The League supports this effort to pay some of the operating expenses of the CSC from a source other than the individual tax return check off, although we would prefer that all CSC operating expenses be paid from the general fund.

SB2029 states that the amount of fines paid will be deposited in the general fund. The League suggests that fines, as well as costs, would be more appropriately deposited in the HECF as long as this fund is being used to pay CSC operating costs.

We urge you to pass this bill. Thank you for the opportunity to submit testimony.